

REMARKS

This reply is submitted in response to the Official Action mailed September 30, 2005 in which claims 1-9 were rejected. In view of the enclosed Terminal Disclaimer and the following remarks, reconsideration by the Examiner and allowance of the application are respectfully requested.

Claim 5 has been rejected for obviousness-type double patenting in view of claim 7 of U.S. Patent No. 6,057,320. Claims 5 and 6 have been rejected for obviousness-type double patenting in view of claims 1-12 of U.S. Patent No. 6,645,969. Claims 5 and 6 have been rejected for obviousness-type double patenting in view of claims 8-12 of U.S. Patent No. 5,710,158. The Examiner indicated that all three rejections could be overcome with the timely filing of Terminal Disclaimers. The rejection is therefore respectfully traversed in view of the enclosed Terminal Disclaimer and the following remarks.

Enclosed herewith is a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) and disclaiming the term of any patent issuing on the present application extending beyond the earliest to expire term of the cited '320 and '158 patents. Therefore, the rejection of claim 5 in view of claim 7 of the '320 patent and the rejection of claims 5 and 6 in view of claims 8-12 of the '158 patent are overcome. In view of the enclosed Terminal Disclaimer, reconsideration by the Examiner and withdrawal of this rejection is respectfully requested.

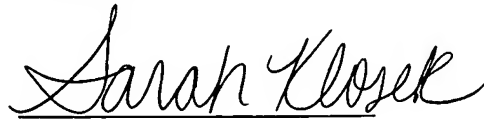
The Terminal Disclaimer, however, does not include the '969 patent. The rejection in view of the '969 patent is improper because the present application is a Divisional of the '969 patent. According to the third sentence of 35 U.S.C. § 121, "A patent issuing on an application with respect to which a requirement for restriction under this section has been made . . . shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application . . . if the divisional application is filed before the issuance of the patent on the other application." Therefore, the rejection of claims 5 and 6 in view of claims 1-12 of the '969 patent should be withdrawn.

CONCLUSION

Accordingly, in view of the enclosed Terminal Disclaimer and the foregoing remarks, this application is now in condition for allowance. Reconsideration is respectfully requested. However, the Examiner is requested to telephone the undersigned if there are any remaining issues in this application to be resolved.

Finally, if there are any additional charges in connection with this response, please charge the required fee to Applicants' deposit account number 19-5425.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sarah Klosek". The signature is written in dark ink and is positioned above the printed name and registration number.

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